

TITLE OF REPORT: **REVIEW OF COUNCILLOR COMPLAINTS HANDLING PROCEDURE**

REPORT OF: **SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER**

COUNCIL PRIORITY: BE A MORE WELCOMING, INCLUSIVE AND EFFICIENT COUNCIL

1. EXECUTIVE SUMMARY

- 1.1 The report covers the review of the Councillor Complaints Handling Procedure. This was undertaken following the adoption of the new Code of Conduct by full Council this year. It seeks to improve the Procedure by taking into account complaints received since the Procedure was last reviewed in May 2019. The proposed amendments are set out under 8.1 of this report.

2. RECOMMENDATIONS

- 2.1. That the Standards Committee considers and adopts the updated Councillor Complaints Handling Procedure at Appendix A;

Or in the event that further amendments are required following discussion at the meeting

- 2.2. That the Standards Committee delegates to the Service Director: Legal & Community the authority to make any consequential amendments to the Procedure, in consultation with the Chair, Vice Chair of Standards Committee, Independent Person and Reserve Independent Persons.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure an updated Procedure is in place and to maintain effective arrangements within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The current Procedure could be retained; however, this would not be the most effective option.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation has taken place with the Chair, Vice Chair, Independent Person and Reserve Independent Persons on redrafts before this came to the Committee.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. The Procedure was last reviewed in May 2019, following the Committee in Standards in Public Life ('CSPL') Best Practice Recommendations and the Standards Committee's consideration and recommendation¹.
- 7.2. Since that time there have been a number of complaints, and the Council has adopted a new Code as from May 2021. It was indicated in the report to Full Council in July 2021 that a review of the Procedure would therefore be undertaken.

8. RELEVANT CONSIDERATIONS

- 8.1. The issues addressed as part of the review:

- **Encouragement to seek local resolution at local council level (1.2, 5.2-5.3 & flowchart App 1)** – in particular, where this relates to a local (Parish/ Town or Community Council) to encourage these issues to be dealt with at a local level. This is for a number of reasons: firstly Hertfordshire Association of Parish and Town Councils are looking to adopt a protocol on this. Whilst legally² a principal Council such as North Herts, must have arrangements to deal with local Councillor complaints, that does not mean this cannot be resolved locally in the first instance, providing there is still the ability to make a complaint if this fails (albeit that account will be taken of any measures introduced and willingness to participate in that process). Timing – this is likely to be dealt with much quicker than referring this through the formal NHC complaints process.
- **Setting out what information needs to be provided with a complaint (3.1).**
- **Stages (1-6) – including 1 which provides a clearer initial preliminary filter stage (see Appendix 1).** This is for various situations, for example where: the person was not acting as a Councillor; there is clearly no potential breach of the relevant Code; as the person is no longer a Councillor; this is a repeat of a previous or similar complaint/ retaliatory complaint. These will be considered in the first instance by the MO or DMO with the Independent Person, without notification of the complaint to the Councillor concerned. This is to continue to meet the CSPL best practice recommendation 6 of having a public interest test – as it is not in the public interest to deal with matters that cannot or should not be considered or investigated (as this increases resource issues on the Council, local Councils and Councillors unnecessarily in those circumstances).
- **Combining the Appendix 1 flowchart with the Complaints Handling criteria:** to prevent confusion/ inconsistencies between the written document and flowchart.
- **Removal of duplicating references in the Procedure (on anonymous complaints – previous 6.6)**
- Minor changes have been made to refer to Councillors throughout the document and reference to North Herts Council (NHC) to conform to the updated logo and wording to assist with the flow of the document.

- 8.2. The version Appended at A to this report is the '*clean*' version – and tracking is not shown. Appendix B shows the potential changes that have been made as tracked changes. The current version is not attached, however can be accessed through this link [[Councillor Complaints Handling Procedure May 2019](#)].

¹ Standards Committee 19 February 2019, item 18

² Under section 28(6) Localism Act 2011 & R (On the Application Of Harvey) v Ledbury Town Council & Anor [2018] EWHC 1151 <https://www.bailii.org/ew/cases/EWHC/Admin/2018/1151.html>

9. LEGAL IMPLICATIONS

- 9.1 The Standards Committee has a function under section 7.5.11 to review and approve the Council's arrangements for dealing with complaints about Member conduct (subject to: minor amendments delegated to the Monitoring Officer in consultation with the Independent Person). The Service Director also has the following delegation under section 14.6.8(a) (v), namely: "To authorise changes to the Governance Policies/ Protocols/ Codes or Guidance (as the case may be) that fall within the remit of the Monitoring Officer and/ or Legal Services (and are not already covered by 14.6.9 to reflect decisions of the Council / Committees and the Cabinet, or minor ones relating to changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all Members of such changes."
- 9.2 Under s28(6) of the Localism Act 2011, a relevant authority must have arrangements in place under which allegations against Councillors can be considered.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report at this stage. Complaints are dealt with by the Monitoring Officer and Deputies by and large with some referrals externally should the Procedure indicate that this is appropriate or because of resource implication within the Directorate in dealing with this in-house.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this report, as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no environmental implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The work outlined within the report is within the caseload of the Monitoring Officer and the legal team. Implications are otherwise touched on under financial implications above.

16. APPENDICES

- 16.1 Appendix A Complaints Handling Procedure (as amended) 'clean' version;

Appendix B Complaints Handling Procedure (as amended) with potential changes tracked.

17. CONTACT OFFICERS

17.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer):
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18. BACKGROUND PAPERS

18.1 None other than those referred to/ linked to in the report or associated documents.